

## § 300.15

(xiii) The marks and the background must be maintained in good condition at all times.

[64 FR 15, Jan. 4, 1999]

### § 300.15 Prohibitions.

In addition to the prohibitions in section 300.4, it is unlawful for any person to:

(a) Use a high seas fishing vessel on the high seas in contravention of international conservation and management measures.

(b) Use a high seas fishing vessel on the high seas, unless the vessel has on board a valid permit issued under section 300.13.

(c) Use a high seas fishing vessel on the high seas that is not marked in accordance with § 300.14.

[61 FR 35550, July 5, 1996, as amended at 64 FR 15, Jan. 4, 1999]

### § 300.16 Penalties.

(a) Any person, any high seas fishing vessel, the owner or operator of such vessel, or any person who has been issued or has applied for a permit, found to be in violation of the Act, this subpart, or any permit issued under this subpart will be subject to the civil and criminal penalty provisions, permit sanctions, and forfeiture provisions prescribed by the Act, 15 CFR part 904 (Civil Procedures), and other applicable laws.

(b) Permits under this subpart may be subject to permit sanctions prescribed by the Act, 15 CFR part 904 (Civil Procedures), and other applicable laws if any amount in settlement of a civil forfeiture imposed on a high seas fishing vessel or other property, or any civil penalty or criminal fine imposed on a high seas fishing vessel or on an owner or operator of such a vessel or on any other person who has been issued or has applied for a permit under any fishery resource statute enforced by the Secretary, has not been paid and is overdue.

[64 FR 15, Jan. 4, 1999]

### § 300.17 Reporting.

(a) *General.* The operator of any vessel permitted under this subpart must report high seas catch and effort information to NMFS in a manner set by

## 50 CFR Ch. III (10–1–03 Edition)

this section. Reports must include: identification information for vessel and operator; operator signature; crew size; whether an observer is aboard; target species; gear used; dates, times, locations, and conditions under which fishing was conducted; species and amounts of fish retained and discarded; and details of any interactions with sea turtles or birds.

(b) *Reporting options.* (1) For the following fisheries, a permit holder must maintain and submit the listed reporting forms to the appropriate address and in accordance with the time limits required by the relevant regulations:

(i) Antarctic—CCAMLR Logbook (50 CFR 300.107);

(ii) Atlantic—Fishing Vessel Log Reports (50 CFR 648.7(b));

(iii) Atlantic Pelagic Longline—Longline Logbook (50 CFR 630.5);

(iv) Atlantic Purse Seine—Vessel Logbook (50 CFR 635.5);

(v) Pacific Pelagic Longline—Longline Logbook (50 CFR 660.14(a));

(vi) Eastern Pacific Purse Seine—IATTC Logbook (50 CFR 300.22); or

(vii) Western Pacific Purse Seine—South Pacific Tuna Treaty Logbook (50 CFR 300.34).

(2) For the albacore troll fisheries in the North and South Pacific, a permit holder must report high seas catch and effort by maintaining and submitting the log provided by the Regional Administrator, Southwest Region, NMFS.

(3) For other fisheries, a permit holder must report high seas catch and effort by maintaining and submitting records, specific to the fishing gear being used, on forms provided by the Regional Administrator of the NMFS Region which issued the permit holder's HSFCA permit.

(c) *Confidentiality of statistics.* Information submitted pursuant to this subpart will be treated in accordance with the provisions of 50 CFR part 600 of this title.

[64 FR 15, Jan. 4, 1999, as amended at 67 FR 64312, Oct. 18, 2002]

## Subpart C—Pacific Tuna Fisheries

AUTHORITY: 16 U.S.C. 951–961 and 971 *et seq.*

## Int'l. Fishing and Related Activities

## § 300.21

### § 300.20 Purpose and scope.

The regulations in this subpart implement the Tuna Conventions Act of 1950 (Act) and the Atlantic Tunas Convention Act of 1975. The regulations provide a mechanism to carry out the recommendations of the Inter-American Tropical Tuna Commission (IATTC) for the conservation and management of highly migratory fish resources in the Eastern Tropical Pacific Ocean so far as they affect vessels and persons subject to the jurisdiction of the United States. They also carry out the recommendations of the International Commission for the Conservation of Atlantic Tunas for the conservation of bluefin tuna, so far as they affect vessels and persons subject to the jurisdiction of the United States.

[64 FR 44430, Aug. 16, 1999]

### § 300.21 Definitions.

In addition to the terms defined in § 300.2, in the Act, the Convention for the Establishment of an Inter-American Tropical Tuna Commission, and the International Convention for the Conservation of Atlantic Tunas, the terms used in this subpart have the following meanings. If a term is defined differently in § 300.2, the Act, or the Conventions, the definition in this section shall apply.

*Bigeye tuna* means the species *Thunnus obesus*.

*Bluefin tuna* means the fish species *Thunnus thynnus* that is found in any ocean area.

*Commission's Yellowfin Regulatory Area (CYRA)* means the waters bounded by a line extending westward from the mainland of North America along the 40° N. latitude parallel, and connecting the following coordinates:

40° N. lat., 125° W. long.;  
20° N. lat., 125° W. long.;  
20° N. lat., 120° W. long.;  
5° N. lat., 120° W. long.;  
5° N. lat., 110° W. long.;  
10° S. lat., 110° W. long.;  
10° S. lat., 90° W. long.;  
30° S. lat., 90° W. long.; and then eastward along the 30° S. latitude parallel to the coast of South America.

*Convention Area* means the waters within the area bounded by the mainland of the Americas, lines extending

westward from the mainland of the Americas along the 40° N. lat. and 40° S. lat., and 150° W. long.

*Fish aggregating device (FAD)* means a manmade raft or other floating object used to attract tuna and make them available to fishing vessels.

*Fishing trip* means a period of time between landings when fishing is conducted.

*Fishing vessel* means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type that is normally used for fishing or for assisting or supporting a vessel engaged in fishing, except purse seine skiffs.

*Floating object* means any natural object or FAD around which fishing vessels may catch tuna.

*Incidental catch* or *incidental species* means species caught while fishing with the primary purpose of catching a different species. An incidental catch is expressed as a percentage of the weight of the total fish on board.

*Land* or *Landing* means to begin transfer of fish from a fishing vessel. Once transfer begins, all fish on board the vessel are counted as part of the landing.

*Observer* means an individual placed aboard a fishing vessel under the IATTC observer program or any other international observer program in which the United States may participate.

*Pacific bluefin tuna* means the subspecies of bluefin tuna *Thunnus thynnus orientalis* that is found in the Pacific Ocean.

*Regional Administrator* means the Administrator, Southwest Region, NMFS, or his designee.

*Tag* means the dealer tag, a flexible self-locking ribbon issued by NMFS for the identification of bluefin tuna under § 300.26, or the BSD tag specified under § 635.42 (a)(2) of this title.

*Tender vessel* means a vessel that does not engage in purse seine fishing but tends to FADs in support of tuna fishing operations.

*Transship* means to unload fish from a vessel that caught fish to another vessel.

*Transshipment receiving vessel* means any vessel, boat, ship, or other craft

## § 300.22

that is used to receive fish from a fishing vessel.

[61 FR 35550, July 5, 1996, as amended at 64 FR 29133, May 28, 1999; 64 FR 44430, Aug. 16, 1999]

## § 300.22 Recordkeeping and reporting.

(a) The master or other person in charge of a fishing vessel, or a person authorized in writing to serve as the agent for either person, must keep an accurate log of all operations conducted from the fishing vessel, entering for each day the date, noon position (stated in latitude and longitude or in relation to known physical features), and the tonnage of fish on board, by species. The record and bridge log maintained at the request of the IATTC shall be sufficient to comply with this paragraph, provided the items of information specified are accurately entered in the log.

(b) The owner of any fishing vessel that uses purse seine, longline, drift gillnet, harpoon, or troll fishing gear to harvest tuna in the Convention Area for sale or a person authorized in writing to serve as agent for the owner must provide such information about the vessel and its characteristics as the Regional Administrator requests to conform to IATTC actions to establish a regional register of all vessels used to fish for species under IATTC purview in the Convention Area. This initially includes, but is not limited to, vessel name and registration number; a photograph of the vessel with the registration number showing; vessel length, beam and moulded depth; gross tonnage and hold capacity in cubic meters and tonnage; engine horsepower; date and place where built; and type of fishing method or methods used.

[61 FR 35550, July 5, 1996, as amended at 66 FR 49320, Sept. 27, 2001]

## § 300.23 Yellowfin tuna—Persons and vessels exempted.

This subpart does not apply to:

(a) Any person or vessel authorized by the IATTC, the Assistant Administrator, or any state of the United States to engage in fishing for research purposes.

(b) Any person or vessel engaged in sport fishing for personal use.

## 50 CFR Ch. III (10–1–03 Edition)

## § 300.24 Pacific bluefin tuna—Dealer permits.

(a) *General.* A dealer importing Pacific bluefin tuna, or purchasing or receiving for export Pacific bluefin tuna first landed in the United States, must have a valid permit issued under this section.

(b) *Application.* A dealer must apply for a permit in writing on an appropriate form obtained from NMFS. The application must be signed by the dealer and be submitted to NMFS at least 30 days before the date upon which the dealer desires to have the permit made effective. The application must contain the following information: Company name, principal place of business, owner's or owners' names, applicant's name (if different from owner or owners) and mailing address and telephone number, and any other information required by NMFS.

(c) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, NMFS will issue a permit within 30 days of receipt of a completed application.

(2) NMFS will notify the applicant of any deficiency in the application. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application will be considered abandoned.

(d) *Duration.* Any permit issued under this section is valid until December 31 of the year for which it is issued, unless suspended or revoked.

(e) *Alteration.* Any permit that is substantially altered, erased, or mutilated is invalid.

(f) *Replacement.* NMFS may issue replacement permits. An application for a replacement permit is not considered a new application.

(g) *Transfer.* A permit issued under this section is not transferable or assignable; it is valid only for the dealer to whom it is issued.

(h) *Inspection.* The dealer must keep the permit issued under this section at his/her principal place of business. The permit must be displayed for inspection upon request of any authorized officer, or any employee of NMFS designated by NMFS for such purpose.

(i) *Sanctions.* The Assistant Administrator may suspend, revoke, modify, or deny a permit issued or sought under

## Int'l. Fishing and Related Activities

## § 300.26

this section. Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(j) *Fees.* NMFS may charge a fee to recover the administrative expenses of permit issuance. The amount of the fee is calculated, at least annually, in accordance with the procedures of the NOAA Finance Handbook, available from NMFS, for determining administrative costs of each special product or service. The fee may not exceed such costs and is specified on each application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of the permit. Payment by a commercial instrument later determined to be insufficiently funded shall invalidate any permit.

(k) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under this section, the dealer issued a permit must report the change to NMFS in writing. The permit is void if any change in information is not reported within 15 days.

[61 FR 35550, July 5, 1996, as amended at 64 FR 29133, May 28, 1999]

### § 300.25 Pacific bluefin tuna—Dealer recordkeeping and reporting.

Any person issued a dealer permit under § 300.24:

(a) Must submit to NMFS a biweekly report on bluefin imports and exports on forms supplied by NMFS.

(1) The report required to be submitted under this paragraph (a) must be postmarked within 10 days after the end of each 2-week reporting period in which Pacific bluefin tuna were exported. The bi-weekly reporting periods are defined as the first day to the 15th day of each month and the 16th day to the last day of the month.

(2) Each report must specify accurately and completely for each tuna or each shipment of bulk-frozen tuna exported: Date of landing or import; any tag number (if so tagged); weight in kilograms (specify if round or dressed); and any other information required by NMFS. At the top of each form, the company's name, license number, and the name of the person filling out the report must be specified. In addition, the beginning and ending dates of the

2-week reporting period must be specified by the dealer and noted at the top of the form.

(b) Must allow an authorized officer, or any employee of NMFS designated by NMFS for this purpose, to inspect and copy any records of transfers, purchases, or receipts of Pacific bluefin tuna.

(c) Must retain at his/her principal place of business a copy of each bi-weekly report for a period of 2 years from the date on which it was submitted to NMFS.

[61 FR 35550, July 5, 1996, as amended at 64 FR 29133, May 28, 1999]

### § 300.26 Pacific bluefin tuna—Tags.

(a) *Issuance.* NMFS will issue numbered tags to each person receiving a dealer's permit under § 300.24.

(b) *Transfer.* Tail tags issued under this section are not transferable and are usable only by the permitted dealer to whom they are issued.

(c) *Affixing tags.* At the discretion of dealers permitted under § 300.24, a tag issued under paragraph (a) of this section may be affixed to each Pacific bluefin tuna purchased or received by the dealer. If so tagged, the tag must be affixed to the tuna between the fifth dorsal finlet and the keel and tag numbers must be recorded on NMFS reports required by § 300.25(a) and any documents accompanying the shipment of Pacific bluefin tuna for domestic commercial use or export.

(d) *Removal.* A NMFS-issued numbered tag affixed to any Pacific bluefin tuna at the option of any permitted dealer under paragraph (c) of this section or any tag affixed to any Pacific bluefin tuna to meet the requirements of § 635.42(a)(2) of this title must remain on the tuna until the tuna is cut into portions. If the tuna or tuna parts subsequently are packaged for transport for domestic commercial use or for export, the number on each tag attached to each tuna or its parts must be written legibly and indelibly on the outside of any package or container.

(e) *Reuse.* Tags issued under this section are separately numbered and may be used only once, one tail tag per fish, to distinguish the purchase of one Pacific bluefin tuna. Once affixed to a

## § 300.27

tuna or recorded on any package, container or report, a tail tag and associated number may not be reused.

[61 FR 35550, July 5, 1996, as amended at 64 FR 29133, May 28, 1999]

### § 300.27 Pacific bluefin tuna—Documentation requirements.

Bluefin tuna imported into, or exported or re-exported from the customs territory of the United States is subject to the documentation requirements specified in §§ 635.41 through 635.44 of this title.

[64 FR 29133, May 28, 1999]

### § 300.28 Prohibitions.

In addition to the prohibitions in § 300.4, it is unlawful for any person or vessel subject to the jurisdiction of the United States to:

(a) Land any species of tuna during the closed season for that species in excess of the amount allowed by the Regional Administrator.

(b) Fish on floating objects in the Convention Area using any gear type specified by the Regional Administrator's notification of closure issued under § 300.29.

(c) Use tender vessels in the Convention Area.

(d) Transship purse seine-caught tuna at sea within the Convention Area.

(e) Import Pacific bluefin tuna or purchase or receive for export Pacific bluefin tuna first landed in the United States without a valid dealer permit issued under § 300.24.

(f) Remove any NMFS-issued numbered tag affixed to any Pacific bluefin tuna at the option of any permitted dealer or any tag affixed to a Pacific bluefin tuna to meet the requirements of § 635.42(a)(2) of this title, before removal is allowed under § 300.26, or fail to write the tag number on the shipping package or container as specified in § 300.26.

(g) Reuse any NMFS-issued numbered tag affixed to a Pacific bluefin tuna at the option of a permitted dealer or any tag affixed to a Pacific bluefin tuna to meet the requirements of § 635.42(a)(2) of this title or reuse any tag number previously written on a shipping package or container as prescribed by § 300.26.

## 50 CFR Ch. III (10–1–03 Edition)

(h) Fail to retain any bigeye, skipjack, or yellowfin tuna brought on board a purse seine vessel in the Convention Area, except fish unfit for human consumption due to spoilage, and except on the last set of the trip if the well capacity is filled;

(i) When using purse seine gear to fish for tuna in the Convention Area, fail to release any non-tuna species as soon as practicable after being identified on board the vessel during the brailing operation;

(j) Land any non-tuna fish species taken in a purse seine set in the Convention Area;

(k) Fail to use the sea turtle handling, release, and resuscitation procedures in § 300.29(e); or

(l) Fail to report information when requested by the Regional Administrator under § 300.21.

[61 FR 35550, July 5, 1996, as amended at 64 FR 29133, May 28, 1999; 64 FR 44430, Aug. 16, 1999; 66 FR 49320, Sept. 27, 2001]

### § 300.29 Eastern Pacific fisheries management.

(a) *Notification of IATTC recommendations.* The Regional Administrator will directly notify owners or agents of U.S. tuna vessels of any fishery management recommendations made by the IATTC and approved by the Department of State that will affect fishing or other activities by U.S. parties with fishery interests in the Convention Area. As soon as practicable after such notification, the Regional Administrator will announce approved IATTC recommendations in the FEDERAL REGISTER.

(b) *Tuna quotas.* (1) Fishing seasons for all tuna species begin on January 1 and end either on December 31 or when NMFS closes the fishery for a specific species.

(2) The Regional Administrator may close the U.S. fishery for yellowfin, bigeye, or skipjack tuna or any other tuna species in the Convention Area or portion of the Convention Area when advised by the Director of Investigations of the IATTC that the associated quota has been or is projected to be reached. Any such closure may include:

(i) An allowance for an incidental catch that may be landed while fishing for other tuna species;

## Int'l. Fishing and Related Activities

## § 300.31

(ii) A prohibition on the further setting of specified gear types on floating objects by U.S. vessels in the Convention Area;

(iii) Provisions for vessels that are at sea during an announced closure to fish unrestricted until the fishing trip is completed;

(iv) Provisions for vessels at sea with an observer on board during any closure to land fish unrestricted if the landing occurs after December 31; or

(v) Other measures to ensure that the conservation and management measures of the IATTC are achieved.

(3) The Regional Administrator will announce any such closures directly to the owners or agents of U.S. vessels who are fishing in or are eligible to fish in the Convention Area.

(4) As soon as practicable after being advised of the quota attainment or projection under paragraph (b)(2) of this section, the Regional Administrator will publish an announcement of the closure in the FEDERAL REGISTER.

(c) *Use of tender vessels.* No person subject to these regulations may use a tender vessel in the Convention Area.

(d) *Transshipments at sea.* No person subject to these regulations may transship purse seine-caught tuna from one vessel to another vessel at sea within the Convention Area.

(e) *Bycatch reduction measures.* (1) Through December 31, 2001, all purse seine vessels must retain on board and land all bigeye, skipjack, and yellowfin tuna brought on board the vessel after a set, except fish deemed unfit for human consumption for other than reason of size. This requirement shall not apply to the last set of a trip if the available well capacity is insufficient to accommodate the entire fish catch brought on board.

(2) All purse seine vessels must release all sharks, billfishes, rays, mahimahi (*dorado*), and other non-tuna fish species, except those being retained for consumption aboard the vessel, as soon as practicable after being identified on board the vessel during the brailing operation.

(3) All purse seine vessels must apply special sea turtle handling and release procedures, as follows:

(i) Whenever a sea turtle is sighted in the net, a speedboat shall be stationed

close to the point where the net is lifted out of the water to assist in release of the turtle;

(ii) If a turtle is entangled in the net, net roll shall stop as soon as the turtle comes out of the water and shall not resume until the turtle has been disentangled and released;

(iii) If, in spite of the measures taken under paragraphs (e)(3)(i) and (ii) of this section, a turtle is accidentally brought onboard the vessel alive and active, the vessel's engine shall be disengaged and the turtle shall be released as quickly as practicable;

(iv) If a turtle brought on board under paragraph (e)(3)(iii) of this section is alive but comatose or inactive, the resuscitation procedures described in § 223.206(d)(1)(i)(B) of this title shall be used before release of the turtle.

[64 FR 44431, Aug. 16, 1999, as amended at 66 FR 49320, Sept. 27, 2001]

## Subpart D—South Pacific Tuna Fisheries

AUTHORITY: 16 U.S.C. 973–973r.

### § 300.30 Purpose and scope.

This subpart implements the South Pacific Tuna Act of 1988 (Act) and the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America (Treaty) and applies to persons and vessels subject to the jurisdiction of the United States.

### § 300.31 Definitions.

In addition to the terms defined in § 300.2, in the Act, and in the Treaty, and unless the context requires otherwise, the terms used in this subpart have the following meanings. If a term is defined differently in § 300.2, the Act, or the Treaty, the definition in this section shall apply.

*Administrator* means the individual or organization designated by the Pacific Island Parties to act on their behalf under the Treaty and notified to the United States.

*Applicable national law* means any provision of law of a Pacific Island Party that is described in paragraph 1(a) of Annex I of the Treaty.